IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4892 of 2000
TO
SPECIAL CIVIL APPLICATION No 4901 of 2000
(Ten matters)

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

---

NAVNITLAL DEVCHAND CHOKSI

Versus

STATE OF GUJARAT 3RD SPECIAL LAND ACQUISITION

---

Appearance:

1. Special Civil Application No. 4892 of 2000
MR BP MUNSHI for Petitioner No. 1
MS NIRALI B MUNSHI for Petitioner No. 1
MR SUDHANSU PATEL, AGP for Respondent No. 1-2

---

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 24/08/2001

COMMON ORAL JUDGEMENT

In this group of ten petitions, the petitioners had purchased parcels of land in Khambhalia taluka of

Jamnagar District. The petitioners had purchased the properties during the period between September, 1994 and September, 1996. After the sale deeds were presented for registration, notices were issued by the Deputy Collector (Stamp Duty Valuation) under Section 32A of the Bombay Stamp Act, 1958 (hereinafter referred to as `the Act'). After hearing the parties, the Deputy Collector determined the market value and called upon the petitioners to pay additional stamp duty ranging between Rs. 1750/- and Rs.12,500/- plus penalty of Rs.250/- as per the orders which were passed between August, 1996 and March, 1997. Those orders were taken by the Chief Controlling Revenue Authority in suo motu review under Section 53A of the Act by issuing notices in July/August, 1999. Ultimately, by orders which came to be passed between August and October, 1999, the Chief Controlling Revenue Authority determined the market value at a much higher amount and called upon the petitioners to pay additional stamp duty plus penalty of Rs.250/-. Ultimately, recovery notices also came to be issued and, therefore, the petitioners have approached this Court.

2. Mr Munshi, learned counsel for the petitioners has sought to urge various contentions and to press all the contentions raised in the memo of the petitions. It is, however, not necessary to enumerate or deal with the same because the Court proposes to dispose of the petitions on the short ground that there was violation of principles of natural justice and the Chief Controlling Revenue Authority did not give reasonable opportunity of hearing to the petitioners. The impugned orders mechanically state that inspite of the notices given to the petitioners, neither the petitioners nor their representatives remained present and, therefore, the Chief Controlling Revenue Authority thought it fit to interfere with the orders of the Deputy Collector which were passed under Section 32A of the Act because the Deputy Collector had determined the market value on lower amounts than the amounts mentioned in the show cause notices issued under Section 32A of the Act.

3. Mr Munshi for the petitioners points out the following averments made in the rejoinder affidavit dated 29.7.2000 and particularly in para 6 thereof :-

> "I respectfully submit that even though the petitioners of Special Civil Application Nos. 4892/2000, 4893/2000, 4895/2000, 4897/2000, 4899/2000 and 4901/2000 had sent their written representations and the petitioners of Special Civil Application Nos. 4896/2000, 4898/2000 and

4900/2000 had sent their applications for adjournments or granting time, none of them had been heard in accordance with law and I reiterate that the respondent No. 1 has passed the impugned order in violation of principles of natural justice and without affording adequate and effective opportunity of hearing in accordance with law and the rules. I respectfully submit that the respondents be called upon to produce relevant documents and papers on record to establish their say."

4. Inspite of the aforesaid categorical statements made on oath as far back as on 29.7.2000, a copy of which affidavit was served upon the respondent authorities in the year 2000 itself, no affidavit in sur-rejoinder has been filed on behalf of the respondents.

5. In view of the above, this appears to be a fit case for quashing and setting aside the impugned orders of the Chief Controlling Revenue Authority passed under Section 53A of the Bombay Stamp Act, 1958 and remanding the matters to the Chief Controlling Revenue Authority for fresh decision in accordance with law after giving the petitioners a reasonable opportunity of being heard. It will be open to the petitioners to send copies of their representations which are stated to have been sent earlier or even to send any further or additional replies/representations in response to the show cause notices under Section 53A of the Act.

The consequential recovery notices issued under the Bombay Land Revenue Code, 1879 are also hereby quashed and set aside without prejudice to the rights and contentions of the parties which shall first be gone into before the Chief Controlling Revenue Authority. The Chief Controlling Revenue Authority will send fresh notices to the petitioners at the addresses mentioned in the cause title of these petitions fixing the date of personal hearing on which the petitioners and/or their representatives shall remain present with the written replies, if any.

7. The petitions are allowed in terms of the aforesaid directions. Rule is made absolute to the aforesaid extent with no order as to costs.

(M.S. Shah, J.)

sundar/-